

ASSEMBLY BILL

No. 1968

Introduced by Assembly Member Wieckowski

February 23, 2012

An act to amend Section 830.5 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as introduced, Wieckowski. Peace officers.

Existing law designates various persons as peace officers, including probation officers, parole officers, and parole agents, and provides that their authority extends to certain duties, including to the conditions of parole, probation, or postrelease community supervision of a person in the state on parole, probation, or postrelease community supervision, the escape of an inmate or ward from a state or local institution, the transportation of persons on parole, probation, or postrelease community supervision, and violations of law that are discovered while performing his or her duties.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 830.5 of the Penal Code is amended to
- 2 read:
- 3 830.5. The following persons are peace officers whose authority
- 4 extends to any place in the state while engaged in the performance

1 of the duties of their respective employment and for the purpose
2 of carrying out the primary function of their employment or as
3 required under Sections 8597, 8598, and 8617 of the Government
4 Code, as amended by Section 44 of Chapter 1124 of the Statutes
5 of 2002. Except as specified in this section, these peace officers
6 may carry firearms only if authorized and under those terms and
7 conditions specified by their employing agency:

8 (a) A parole officer of the Department of Corrections and
9 Rehabilitation, or the Department of Corrections and
10 Rehabilitation, Division of Juvenile Parole Operations, probation
11 officer, deputy probation officer, or a board coordinating parole
12 agent employed by the Juvenile Parole Board. Except as otherwise
13 provided in this subdivision, the authority of these parole or
14 probation officers shall extend only as follows:

15 (1) To conditions of parole, probation, or postrelease community
16 supervision by any person in this state on parole, probation, or
17 postrelease community supervision.

18 (2) To the escape of any inmate or ward from a state or local
19 institution.

20 (3) To the transportation of persons on parole, probation, or
21 postrelease community supervision.

22 (4) To violations of any penal provisions of law ~~which~~ *that* are
23 discovered while performing the usual or authorized duties of his
24 or her employment.

25 (5) (A) To the rendering of mutual aid to any other law
26 enforcement agency.

27 (B) For the purposes of this subdivision, “parole agent” shall
28 have the same meaning as parole officer of the Department of
29 Corrections and Rehabilitation or of the Department of Corrections
30 and Rehabilitation, Division of Juvenile Justice.

31 (C) Any parole officer of the Department of Corrections and
32 Rehabilitation, or the Department of Corrections and
33 Rehabilitation, Division of Juvenile Parole Operations, is
34 authorized to carry firearms, but only as determined by the director
35 on a case-by-case or unit-by-unit basis and only under those terms
36 and conditions specified by the director or chairperson. The
37 Department of Corrections and Rehabilitation, Division of Juvenile
38 Justice, shall develop a policy for arming peace officers of the
39 Department of Corrections and Rehabilitation, Division of Juvenile
40 Justice, who comprise “high-risk transportation details” or

1 “high-risk escape details” no later than June 30, 1995. This policy
2 shall be implemented no later than December 31, 1995.

3 (D) The Department of Corrections and Rehabilitation, Division
4 of Juvenile Justice, shall train and arm those peace officers who
5 comprise tactical teams at each facility for use during “high-risk
6 escape details.”

7 (b) A correctional officer employed by the Department of
8 Corrections and Rehabilitation, or of the Department of Corrections
9 and Rehabilitation, Division of Juvenile Justice, having custody
10 of wards or any employee of the Department of Corrections and
11 Rehabilitation designated by the secretary or any correctional
12 counselor series employee of the Department of Corrections and
13 Rehabilitation or any medical technical assistant series employee
14 designated by the secretary or designated by the secretary and
15 employed by the State Department of Mental Health or any
16 employee of the Board of Parole Hearings designated by the
17 secretary or employee of the Department of Corrections and
18 Rehabilitation, Division of Juvenile Justice, designated by the
19 secretary or any superintendent, supervisor, or employee having
20 custodial responsibilities in an institution operated by a probation
21 department, or any transportation officer of a probation department.

22 (c) The following persons may carry a firearm while not on
23 duty: a parole officer of the Department of Corrections and
24 Rehabilitation, or the Department of Corrections and
25 Rehabilitation, Division of Juvenile Justice, a correctional officer
26 or correctional counselor employed by the Department of
27 Corrections and Rehabilitation, or an employee of the Department
28 of Corrections and Rehabilitation, Division of Juvenile Justice,
29 having custody of wards or any employee of the Department of
30 Corrections and Rehabilitation designated by the secretary. A
31 parole officer of the Juvenile Parole Board may carry a firearm
32 while not on duty only when so authorized by the chairperson of
33 the board and only under the terms and conditions specified by
34 the chairperson. Nothing in this section shall be interpreted to
35 require licensure pursuant to Section 25400. The director or
36 chairperson may deny, suspend, or revoke for good cause a
37 person’s right to carry a firearm under this subdivision. That person
38 shall, upon request, receive a hearing, as provided for in the
39 negotiated grievance procedure between the exclusive employee
40 representative and the Department of Corrections and

1 Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole
2 Board, to review the director's or the chairperson's decision.

3 (d) Persons permitted to carry firearms pursuant to this section,
4 either on or off duty, shall meet the training requirements of Section
5 832 and shall qualify with the firearm at least quarterly. It is the
6 responsibility of the individual officer or designee to maintain his
7 or her eligibility to carry concealable firearms off duty. Failure to
8 maintain quarterly qualifications by an officer or designee with
9 any concealable firearms carried off duty shall constitute good
10 cause to suspend or revoke that person's right to carry firearms
11 off duty.

12 (e) The Department of Corrections and Rehabilitation shall
13 allow reasonable access to its ranges for officers and designees of
14 either department to qualify to carry concealable firearms off duty.
15 The time spent on the range for purposes of meeting the
16 qualification requirements shall be the person's own time during
17 the person's off-duty hours.

18 (f) The secretary shall promulgate regulations consistent with
19 this section.

20 (g) "High-risk transportation details" and "high-risk escape
21 details" as used in this section shall be determined by the secretary,
22 or his or her designee. The secretary, or his or her designee, shall
23 consider at least the following in determining "high-risk
24 transportation details" and "high-risk escape details": protection
25 of the public, protection of officers, flight risk, and violence
26 potential of the wards.

27 (h) "Transportation detail" as used in this section shall include
28 transportation of wards outside the facility, including, but not
29 limited to, court appearances, medical trips, and interfacility
30 transfers.

31 (i) This section is operative January 1, 2012.